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COMMISSION ON NARCOTIC DRUGS ACTING AS
PREPARATORY BODY FOR THE SPECIAL SESSION
OF THE GENERAL ASSEMBLY DEVOTED TO THE
FIGHT AGAINST THE ILLICIT PRODUCTION,
SALE, DEMAND, TRAFFIC AND DISTRIBUTION
OF NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES AND RELATED ACTIVITIES
Second session
Vienna, 16-20 March 1998
Agenda item 2 (b)*

PREPARATIONS FOR THE SPECIAL SESSION OF THE GENERAL ASSEMBLY TO CONSIDER THE FIGHT AGAINST THE ILLICIT PRODUCTION, SALE, DEMAND, TRAFFIC AND DISTRIBUTION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES AND RELATED ACTIVITIES TO PROPOSE NEW STRATEGIES, METHODS, PRACTICAL ACTIVITIES AND SPECIFIC MEASURES TO STRENGTHEN INTERNATIONAL COOPERATION IN ADDRESSING THE PROBLEM OF DRUG ABUSE AND ILLICIT TRAFFICKING

CONSIDERATION OF THE REPORTS OF THE INFORMAL INTER-SESSIONAL MEETINGS OF THE COMMISSION ACTING AS PREPARATORY BODY FOR THE SPECIAL SESSION OF THE GENERAL ASSEMBLY ON INTERNATIONAL DRUG CONTROL

Control of precursors

* The agenda for the session is contained in document E/CN.7/1998/PC/1.

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PROPOSED DRAFT RESOLUTION

The General Assembly,

Recognizing the fact that, in recent years, the diversion of precursors[1] has become one of the most serious phenomena in the field of illicit drug manufacture,

Noting that the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol,[2] the Convention on Psychotropic Substances of 1971[3] and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[4] provide the international basis for drug and precursor control,

Reaffirming the importance of preventing the diversion of chemicals from legitimate commerce to illicit drug manufacture as an essential component of a comprehensive strategy against drug abuse and trafficking,

Recognizing that combating this phenomenon calls for the adoption and effective application of strict and modern laws that make it possible to prevent and penalize such criminal conduct, as well as for the establishment of efficient and fully trained investigatory bodies and organs of justice that possess the human and material resources required to deal with the problem,

Noting the special problem posed by synthetic drugs, which can be manufactured illicitly in a variety of forms using chemicals, many of which can be easily substituted,

Noting also the progress made in developing practical guidelines for the implementation of the international drug control conventions, in particular the International Narcotics Control Board *Guidelines for Use by National Authorities in Preventing the Diversion of Precursors and Essential Chemicals*, and the annex entitled "Summary of the recommendations of the International Narcotics Control Board relevant to implementation by Governments of article 12 of the 1988 Convention", which appears annually in the report of the INCB on the implementation of article 12 of the 1988 Convention,

Conscious of the progress made in controlling shipments of precursors as a result of cooperation between the competent national authorities in a number of States, and of the important work conducted

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[1]The term "precursor" is used to indicate any of the substances listed in Table I or II of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, except where the context requires a different expression. Such substances are often described as precursors or essential chemicals, depending on their principal chemical properties. The plenipotentiary conference that adopted the 1988 Convention did not use any one term to describe such substances. Instead, the expression "substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances" was introduced in the 1988 Convention. It has become common practice, however, to refer to all such substances simply as "precursors"; although that term is not technically correct, it is used in this text for the sake of brevity.

[2]United Nations, *Treaty Series*, vol. 976, No. 14152.

[3]Ibid., vol. 1019, No. 14956.

[4]*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

by the International Narcotics Control Board in facilitating that cooperation, and in assisting Governments in verifying the legitimacy of individual transactions to prevent their diversion to illicit traffic,

Conscious also of the fact that many States lack sufficient resources to conduct in-depth investigations that would enable them to determine the legitimacy of transactions,

Considering that experience in precursor control demonstrates that multilateral exchange of information between competent national authorities of all States concerned, as well as the international organizations concerned, supplemented by bilateral and regional agreements for information sharing where necessary, is essential to preventing the diversion of precursors,

Deeply concerned that drug traffickers continue to have access to the precursors required for the illicit manufacture of drugs, including substances listed in Tables I and II of the 1988 Convention, as well as other substances that are used as substitutes,

Considering that measures against the diversion of precursors can only be effective through concerted worldwide action and international cooperation guided by common principles and objectives,

Decides to adopt the measures to prevent the illicit manufacture, import, export, trafficking, distribution and diversion from licit channels to the illicit traffic of precursors used in the illicit manufacture of narcotic drugs and psychotropic substances, including substitute chemicals, as well as additional measures to enhance international cooperation in precursor control, which are presented below.

I. MEASURES TO PREVENT THE ILLICIT MANUFACTURE, IMPORT, EXPORT, TRAFFICKING AND DISTRIBUTION OF PRECURSORS USED IN THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

A. Legislation and national control systems

Problem

1. The necessary actions to be taken by States to prevent diversion, and the success of those actions in identifying attempted diversions and stopping shipments, are only possible if States have established an adequate legislative basis or system of control that allows them to effectively monitor the movement of precursors. Further, mechanisms and procedures must be established for effective implementation of the legislation in place.

2. In order to establish effective systems of control, States need to identify competent national authorities and their specific roles and to share that information with other States. They also need to share details of the actual control measures applied.

3. Many States have not yet taken those necessary steps.

Action

4. States in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

(a) Adopt and implement, where they have not already done so, the necessary national laws and regulations required for strict compliance with the provisions and proposals of article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and related resolutions of the Commission on Narcotic Drugs and the Economic and Social Council, including, in particular, the establishment of a system of control and licensing of the enterprises and persons engaged in the manufacture and distribution of substances listed in Tables I and II of the 1988 Convention and a system for monitoring the international trade in such substances for the purpose of facilitating the detection of suspicious shipments, and designate competent national authorities responsible for implementing such controls;

(b) Review regularly, and take appropriate steps to strengthen existing precursor controls should any weaknesses be identified, giving full consideration to the related recommendations of the International Narcotics Control Board as contained in the annual reports of the Board on the implementation of article 12 of the 1988 Convention;

(c) Adopt penal, civil or administrative measures for punishing, in accordance with their legislative provisions, as a criminal offence in the sense of article 3 of the 1988 Convention, the unlawful conduct of individuals or companies in connection with the diversion of precursors from legitimate commerce into the illicit drug manufacture;

(d) Exchange experience on procedures for the adoption of legislation and on the application of measures for combating and punishing illicit traffic in, and diversion of, precursors, including the use, where appropriate, of controlled deliveries;

(e) Submit timely reports to the International Narcotics Control Board on national regulations adopted to control the export, import and transit of precursors, including details of the requirements that have to be met for the authorization of imports and exports;

(f) Adopt the necessary measures to ensure that the disposal of seized chemicals has no harmful effect on the environment.

B. Information exchange

Problem

5. Rapid and timely information exchange between importing and exporting States is the key to effective precursor control, allowing States to verify the legitimacy of individual transactions and identify suspicious shipments in order to prevent the diversion of precursors. Many States have not yet established systematic mechanisms to ensure such rapid communication exchange, including timely feedback, with other competent national authorities, and with the International Narcotics Control Board, even on a confidential basis.

6. Similarly, traffickers quickly turn to sources in other States when they are denied the chemicals that they require. Experience has confirmed the importance of immediately sharing information on diversion attempts and suspicious transactions or stopped shipments with other States, and with the International Narcotics Control Board, in order to counter such attempts elsewhere.

Action

7. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

(a) Improve their mechanisms and procedures for monitoring trade in precursors, including the following actions:

(i) Regular exchange of information between exporting, importing and transit States, and with the International Narcotics Control Board, on exports of precursors before they take place, including, in particular, the provision by exporting States of pre-export notification to the competent authorities in importing countries for all transactions involving the substances in Table I and, in addition to the requirements of article 12, paragraph 10, of the 1988 Convention, acetic anhydride and potassium permanganate upon request to the Secretary-General by the importing country. Recognizing the importance and usefulness of pre-export notifications for combatting effectively the illicit production of narcotic drugs, psychotropic substances and, particularly, of amphetamine-type stimulants, the same efforts should be made with regard to the remaining substances listed in Table II. These measures should complement tight domestic controls in all countries which are also necessary to ensure the prevention of diversion of precursor chemicals.

(ii) Promotion of the implementation, by competent national authorities, of mechanisms to verify the legitimacy of transactions before they take place, including: the exchange of information on the legitimate domestic need for the chemical; timely feedback to exporting States by States that have received pre-export notifications; and provision by exporting States, when requested by the importing State, to allow for adequate time, to the extent possible, up to 15 days, to verify the legitimate end-use;

(iii) Exchange of information between exporting, importing and transit States, and with the International Narcotics Control Board, on suspicious transactions involving precursors and, where appropriate, on seizures effected and denials made;

(b) Keep confidential any industrial, business, commercial or professional secrets or trade processes contained in the reports provided by States on the export, import or transit and intended use of precursors, in accordance with the provisions of article 12, paragraph 11, of the 1988 Convention. Where necessary, an appropriate legal framework should be set up to ensure the suitable protection of personal data;

(c) Notify, as rapidly as possible, the International Narcotics Control Board, and the other States concerned as they consider necessary, of any decision to deny a permit for the shipment of a precursor if it has not been possible to verify the legitimacy of a transaction, whether an import, export or trans-shipment, providing all relevant information for the reasons for the denial, so that other States may consider taking a similar course of action. Whenever an importing, exporting, or transit State is considering issuing a permit for shipment, it should make its decision with due assessment of all the elements of the case, and in particular of any such information provided to it by the State that has denied the issue of a permit for that shipment.

C. Data collection

Problem

8. Information on the normal patterns of legitimate trade and on the licit uses of, and requirements for, precursors is necessary to verify the legitimacy of individual transactions. Without such information, it is difficult to monitor the movement of precursors as required under article 12 of the 1988 Convention. Many States are not yet able to collect data on the licit movement of precursors. The inability to do so may indicate that the framework and systems for adequate control are not in place, and that competencies in the field of precursor control have not been clearly defined.

Action

9. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

(a) Design and establish flexible and effective mechanisms, where they do not already exist, subject to provisions for confidentiality and data protection, for obtaining data on the licit manufacture, import or export of precursors, and on any other activity related to the trade in precursors and for monitoring the movement of such substances, including the establishment of a register of public or private companies engaged in any activity relating thereto, which are to report suspicious orders for, or cases of theft of, precursors and to cooperate at all times with the competent national authorities;

(b) Establish or strengthen cooperation with associations of the chemical trade and industry, and with persons or companies engaged in any activity related to precursors, for example, through the establishment of guidelines or a code of conduct, to intensify efforts aimed at controlling such substances;

(c) Establish the principle of "know your client" for those who manufacture or market chemicals in order to improve the exchange of information.

II. TOWARDS MORE UNIVERSAL INTERNATIONAL COOPERATION IN PRECURSOR CONTROL

Problem

10. Achievements in preventing the diversion of precursors have been due to the activities of a growing, but still relatively small, number of governments of exporting, importing and transit States and territories worldwide.

11. Those States have taken specific steps to monitor the movement of precursors through their territories, even when they do not have comprehensive legislation for precursor control in place. However, many States have not yet developed adequate systems for precursor control, in spite of the fact that traffickers have exploited as points of diversion those countries and territories where controls are inadequate. Controls do not serve their purpose if all States facing similar situations with regard to the trafficking of precursors do not take similar practical steps to ensure that diversion attempts are identified or do not share their experiences in implementing controls. More uniform action is required by all States to limit the availability to traffickers of the precursors required for illicit drug manufacture.

Action

12. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

(a) Institutionalize uniform procedures to facilitate the widespread, multilateral exchange of information on suspicious transactions and stopped shipments in the course of implementing national precursor control laws and regulations based on the international drug control conventions and related resolutions, guidelines and recommendations in such a way as to complement bilateral or regional agreements;

(b) Promote multilateral arrangements that encourage the exchange of essential information for effective monitoring of the international trade in precursors, to complement similar bilateral or regional agreements, with special emphasis on devising practical systems for sharing information on individual transactions;

(c) Disseminate more systematic information on the ways and means used by criminal organizations for illicit trafficking in, and diversion of, precursors, with a view to adopting measures to prevent such illicit activities, in accordance with article 12, paragraph 12 (c), of the 1988 Convention;

(d) Promote technical assistance programmes for States upon request, according the highest priority to those with the least resources, for the purpose of strengthening control of precursors and avoiding their diversion for illicit purposes;

(e) Promote the exchange of experience relating to police, customs and other administrative investigation, interception, detection and control of diversion of precursors;

(f) Organize expert meetings, where necessary, on combating the illicit traffic in, and diversion of, precursors, in order to promote professional skills and raise levels of expertise.

III. SUBSTITUTE CHEMICALS

Problem

13. Some of the substances required for illicit drug manufacture that are listed in Tables I and II of the 1988 Convention have become especially difficult to obtain as a result of the implementation of the provisions of that Convention. Traffickers have successfully sought to obtain chemicals that may be used as substitutes for those that are more closely monitored. In addition, they have identified and used new methods for processing or manufacture, requiring substances currently not listed in Tables I and II of the 1988 Convention. They have also manufactured so-called controlled drug analogues, many of which again require as starting material substances currently not listed in Tables I and II.

Action

14. States, in cooperation with competent international and regional bodies and, if necessary, and to the extent possible, with the private sector in each State, should:

(a) Cooperate with the International Narcotics Control Board in the preparation of a limited international special surveillance list of substances currently not in Tables I and II of the 1988 Convention and for which substantial information exists of their use in illicit drug trafficking, as requested by the Economic and Social Council in its resolution 1996/29, section I, of 24 July 1996, contributing to the maintenance of that list by informing the Board on a regular basis, in accordance with article 12, paragraph 12, of non-scheduled substances that have been diverted from licit channels to illicit traffic and promoting studies of the potential use of non-scheduled substances with a view to the timely identification of any that could be used in the illicit manufacture of drugs;

(b) Apply monitoring measures, whether voluntary, administrative or legislative, in cooperation with the chemical industry, so as to prevent the diversion from licit channels to the illicit traffic of substances included on the special surveillance list, including specific monitoring measures for those substances that are relevant at the national or regional levels. In addition, States shall consider punishing, as a criminal offence in the sense of article 3 of the 1988 Convention, the diversion of non-scheduled chemical substances with the knowledge

that they are intended for use in the illicit manufacture of narcotic drugs or psychotropic substances, and introducing related penal, civil and administrative sanctions.